

MINUTES OF THE ZONING BOARD OF APPEALS THE TOWN OF KINGSBURY

Minutes of January 25, 2018

MEMBERS PRESENT:

Bill Whipple, Chairman Pro Tem
Brian Heasley
Katherine Henley
Rich Hogan
Sondra Michaud
Michelle Wood

MEMBERS ABSENT:

Hank LaFountain, Chairman (Excused)
Scott Winchell (Excused)

CODE ENFORCEMENT OFFICER/ZONING ADMINISTRATOR:

Francis Cortese

TOWN ATTORNEY:

Jeff Meyer, ESQ.

The meeting was called to order by Chairman Pro Tem Whipple at 7:00pm.

Roll call of all members.

Chairman Pro Tem Whipple entertained a Motion to Approve the Minutes of December 28, 2017.

ON A MOTION BY MRS. WOOD, seconded by Mr. Heasley, the minutes of the December 28, 2017 meeting were approved.

AYES: 6

NAYES: 0

ABSTAIN: 0

MOTION CARRIED

1. **R2M Holdings LLC**, Tax Map # 146.13-2-15, commonly known as 36 Dean Road, Hudson Falls, Town of Kingsbury, located in Zoning District, Low Density Residential / LDR-25 is seeking Area Variance approval to increase the number of dwelling units on the property from 5 to 9. An LDR-25 District allows one dwelling unit for every 25,000 square feet. Plans for proposal are available at Kingsbury Town 6 Michigan Street, Hudson Falls, New York during regular business hours.

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Chairman Pro Tem Whipple introduced Ethan Hall, Principal with Rucinski-Hall Architecture and Attorney Jon Lapper, Bartlett, Pontiff, Stewart & Rhodes, P. C. who will be representing Robert Springer, R2M Holdings, LLC to address the Board.

Mr. Lapper stated they were here over the summer with a much larger project where they were seeking twelve (12) additional units. Now they are seeking four (4) additional units, which is a third of the size from the original proposal. Mr. Springer has met with the neighbors and vast majorities are supportive of this reduced size. Mr. Springer has signed petitions from the residence he spoke with for the record and are attached to the minutes. Mr. Springer stated the people that signed this petition either live on Quarry Circle or on Dean Road.

Mr. Lapper stated in terms of the benefits to the applicant in status for the area variance, he has spent over \$50,000, to bring sewer in to this site. By doing this Mr. Springer is insuring there will not be any septic issue, this also reduces the need for septic fields for the five existing units. With having public sewer they feel this site can accommodate four more units. In terms of the impact on the neighborhood, this project backs up to the Schermerhorn Apartments. Also, across the street is The Quarry, LLC. This is a multifamily area in general. There are single family homes in this area as well. They so not feel this project alters the neighborhood being there are already multifamily dwellings in the area.

The neighbor on the north side has a building encroaching on this site. They are proposing to do a land boundary adjustment and deed the piece of land to the home owner.

Mr. Lapper stated he feels with the public utilities is a big plus and internal roadways which will be owned and maintained by the applicant with no impact on any municipality.

Mr. Lapper introduced Mr. Hall to discuss the design of this project.

Mr. Hall reviewed the initial proposal to the Board. In August they were asking for an additional 17 units at this site. The revised proposal is for a total of 4 units. This would make a total of 9 units. The new layout proposes to straighten the kink in the road that was in the first proposal. With the new proposal the roadway will extend straight in and have a hammerhead turn around. This will allow larger vehicles (garbage trucks and that type of vehicle) to be able to turn around and drive straight out rather than having to back out. This will also benefit fire trucks, ambulances and emergency vehicles. The water line will be extended to supply the two addition buildings.

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They have extended and maintained and the landscaping that goes along with the front buildings. The two new buildings will have more space between them than the first two buildings have. They have added plantings along the north side boundary and the south side boundary and started a fence on their property starting from the existing woodshed on the neighbor's property and continuing down past the last townhouse.

The building layout will be the same as was discussed at the August 2017 meeting. Each unit will have a two car garage, living room, dining area and kitchen on the main floor. The upstairs will have three bedrooms, a bathroom and a laundry room. In keeping with what is there they will be using some stone around the front entry doors.

Mr. Hogan questioned if the hammerhead will be sufficient size for fire department.

Mr. Hall stated the hammerhead is the same size as when they were here at the first initial meeting. They have moved the hammerhead from the front end of the road to the rear end of the road.

Mrs. Wood requested an explanation regarding the density request.

Mr. Hall stated they are asking for two thirds less than what they asked before. They are asking for a total of nine units this time verses the 12 units the first time.

Mr. Lapper stated with the five units that are there now they had less area to build the 12 units in their first proposal. By reducing the units to 4 they do feel this proposal is as big of a request. There is more space now. The argument on the side of the applicant is the code contemplates private sewer rather than municipal sewer so that allows for more development.

The townhouses that are there had to be tied into the sewer. The sewer is at Quarry Circle and comes across to a station in front of this project and runs down the side of the property line.

The water from stormwater all comes into infiltration areas that are in between the buildings located there now. They have additional space in the back that will not be developed and will help with the stormwater.

Chairman Pro Tem Whipple questioned Mr. Springer if he knew how many units were located at Mr. Nikas development.

Mr. Springer replied there are nine units; 3-three unit townhouses are located there.

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Mrs. Michaud questioned the size of the property.

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Mr. Hall stated it is the property is 127, 000 square feet, approximately 2.9 acres +/-.

Chairman Pro Tem Whipple opened the Public Hearing.

Joan Leahy, 32 Dean Road, stated she is a bordering neighbor to this project and questioned the Board if her name was included with the petitions because she did not sign any petition.

Mr. Springer stated he had a discussion last fall between this lady and a gentleman. They had concerns with multiple duplexes being on this property. During the conversation they stated in their mind two duplexes wouldn't be encroaching. This was a verbal back and forth conversation.

Mr. Springer also spoke to the neighbor to the north, Bonnie Hanna who was not comfortable with the previous application of four duplexes, even though it is Mr. Springer's property. In their verbal conversation Ms. Hanna stated she was not comfortable with ups setting the trees and items of this nature being removed towards the rear of her property. Mr. Springer stated he reassured Ms. Hanna this would not happen. In the mean time they have come to a conclusion that 2 duplexes could be built safely without in cringing on her property or hurting anyone.

Dan Atkinson, 28 Dean Road had concerns with the water table and the sewer capacity.

Mr. Hall stated the capacity that was set aside for the Quarry Town Houses was already calculated into the flow that goes into the current sewage disposal systems at the county. Mr. Springer bought the capacity from Mr. Nikas and brought across the street. Mr. Hall stated with Mr. Springer buying the capacity from Mr. Nikas, this has reduced the flow to Mr. Nikas's Development. Mr. Nikas had originally planned on 270 +/- units when he was developing his property. He has since changed the plans to single family homes.

Andre Chadwick, 9 Quarry Circle stated to his understanding there has always been a high water table in this area. He does not believe these two buildings should have any impact on the neighbors.

Mr. Hall stated the site was designed so that the water drains from front to back. With the amount of rain in the past two weeks there has not been any problems and the rain stayed on the site.

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Mr. Springer stated his buildings have rain gutters as well as dry wells on the property and are going to design it so the water is directed to the dry wells.

Chairman Pro Tem Whipple questioned if the duplex would be on slabs or have crawl spaces.

Mr. Hall stated they will have crawl spaces to be able to install the furnaces in this area. The front two buildings are on slabs.

Chairman Pro Tem Whipple questioned how far in the ground will the crawl space be.

Mr. Hall stated four feet, the same as a frost wall. The first two building have a frost wall below the slab.

Ms. Leahy questioned if there was going to be any kind of a fence put up. At this time she has children, dogs and cats coming on to her property.

Mr. Hall responded there will be a six foot stockade white vinyl fence installed from the end of the wood shed and run down to the end of the property.

Mr. Atkinson asked if this project is approved will there further development.

Mr. Springer stated this is the end of his request there will not be any more request for anything else on this property.

Edna Alexander stated the people living in the townhouses now are letting their animals run loose. She doesn't have any animals and does not think this is fair to the neighbors to have been subject to the animals.

Chairman Pro Tem Whipple stated there is not anything this Board can do. When this occurs they should call Todd Huminston, Dog Control Officer for the Town of Kingsbury.

Chairman Pro Tem Whipple closed the Public Hearing.

Discussion ensued among the Board with questions address by the Applicant's Representation and the Applicant.

The Board then reviewed the proposed Resolution.

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**ZONING BOARD OF APPEALS OF THE TOWN OF KINGSBURY
COUNTY OF WASHINGTON, STATE OF NEW YORK**

Adopted January 25, 2018

Introduced by Rich Hogan
who moved its adoption

Seconded by Brian Heasley

**RESOLUTION APPROVING THE
AREA VARIANCE REQUEST OF
R2M HOLDINGS, LLC**

WHEREAS, pursuant to the Chapter 280 of the Code of the Town of Kingsbury, the Town of Kingsbury Zoning Board of Appeals (hereafter the "ZBA") is authorized and empowered issue variances in accordance with said Zoning Ordinance and Section 267-b of the Town Law;

WHEREAS, R2M Holdings, LLC (hereafter the "Applicant"), has requested a variance to increase the permissible number of dwelling units on the property located at 36 Dean Road, Town of Kingsbury, identified as Tax Map Number 146.13-2-15, located in the LDR-25 Zoning District; and

WHEREAS, the Applicant is requesting relief from code sections 280-22, to increase the number of dwelling units permitted on the property from five (5) to nine (9); and

WHEREAS, in accordance with the State Environmental Quality Review Act (hereafter "SEQRA"), the requested variances are unlisted actions and the ZBA having previously reviewed Part II of the short Environmental Assessment Form and found the proposed action will not result in any significant environmental impacts; and

WHEREAS, a public hearing was duly held on the requested variances at which time the Applicant and members of the public were entitled to comment on the requested variance; and

WHEREAS, the ZBA has reviewed the Application and supporting materials, and has taken into consideration the comments from the public, and has reviewed the criteria found in Town Law Section 267-b.

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NOW THEREFORE BE IT RESOLVED:

Section 1. Considering the area variance requirements: in considering the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant, while noting that the ZBA must grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community, the ZBA hereby **APPROVES** the application and finds the following:

(a) Will an undesirable change be produced in the character of the neighborhood or will a detriment to nearby properties be created by the granting of the area variance?

No, it will not result in an undesirable change in the character of the neighborhood. The neighborhood is changing as higher density housing is being developed and the proposal is in line with the development that is occurring.

(b) Can the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than through an area variance?

No, the property has previously been developed to the capacity that is permissible in the zone.

(c) Is the requested area variance substantial?

Yes, it is nearly double the permitted density.

(d) Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

The existing area already has dense development and groundwater problems. There is a concern that this will add to the existing problems. The Board finds that with property engineered development and the conditions that are a part of the approval, it should help with the existing problems. The applicant has brought sewer to the property to further enhance the project.

(e) Was the alleged difficulty self-created?

Yes, the applicant is seeking additional units.

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Section 2. Conditions.

This approval is expressly contingent upon the following:

- (a) The structures shall be built on slab foundations. Basements and crawl spaces are expressly prohibited.
- (b) The fence providing screening along adjoining properties shall be installed prior to construction of the proposed duplexes.
- (c) No further development shall be permitted on site.

Section 3. This resolution shall take effect immediately.

ROLL CALL VOTE

Rich Hogan – Aye
Brian Heasley – Aye
William Whipple – Aye
Michelle Wood – Aye
Katherine Henley – Aye
Sondra Michaud – Nay

ON A MOTION BY MS. HENLEY, seconded by Mr. Heasley all in favor, the meeting was adjourned at 7:30 P.M.

Michelle Radliff
Secretary

DATE 9/11/17

NAME'S Faith Mesner

Address 24 Quarry Circle
Hudson Falls, NY 12849

RE: R2M Holdings request
to expand project at
36 Dean Rd "Kings Way" from
5 Townhouses to a total
of 13 Townhouses I (WE)
Approve the expansion request.

Faith Mesner

CONTACT#

409-3849

DATE 9/11/17

NAME'S Robert Porter

Address 2 Quarry Circle Way

RE: R2M Holdings request
to expand project at
36 Dean Rd "Kings Way" from
5 Townhouses to a total
of 13 Townhouses I (WE)
Approve the expansion request.

CONTACT#

518 361-9070



DATE 9/11/17

NAME'S Brad Hamill

Address 8 Quarry Circle Wey

RE: R2M Holdings request
to expand project at
36 Dean Rd "Kings Way" from
5 Townhouses to a total
of 13 Townhouses I (WE)
Approve the expansion request.

Bradley Hamill

CONTACT#

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DATE 9/11/17

NAME'S Nick and Cassandra Maille

Address 12 Quarry Circle Way, Hudson Falls, NY 12839

RE: R2M Holdings request
to expand project at
36 Dean Rd "Kings Way" from
5 Townhouses to a total
of 13 Townhouses I (WE)
Approve the expansion request.

CONTACT#

583610698

Cassandra Maille

DATE 9/11/17

NAME'S Andy/Sue Studler

Address 1 CUNRY Circle, Hudson Falls

RE: R2M Holdings request
to expand project at
36 Dean Rd "Kings Way" from
5 Townhouses to a total
of 13 Townhouses I (WE)
Approve the expansion request.

CONTACT#

518-796-8553

~~Sue Studler~~

Sue Studler

DATE 9/15/17

NAME'S Terry & Jamie Hobbs

Address 22 Dean Rd, Hudson Falls

RE: R2M Holdings request
to expand project at
36 Dean Rd "Kings Way" from
5 Townhouses to a total
of 13 Townhouses I (WE)
Approve the expansion request.

22 Dean Rd

Terry G Hobbs

CONTACT #

(518) 747-2262 (H)

(518) 307-9243 (C)

DATE 9/19/17

NAME'S Barry & Eva Moorer

Address 23 Dean Road.

RE: R2M Holdings request
to expand project at
36 Dean Rd "Kings Way" from
5 Townhouses to a total
of 13 Townhouses I (WE)
Approve the expansion request.

Eva Moorer

CONTACT#
(518) 409-4311

DATE 9/12/17

NAME'S Andre + Sandy Chadwick

Address 9 Quarry Circle Way

RE: R2M Holdings request
to expand project at
36 Dean Rd "Kings Way" from
5 Townhouses to a total
of 13 Townhouses I (WE)
Approve the expansion request.

CONTACT#

2518-260-217

Andre Chadwick

Sandy Chadwick